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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,653	06/20/2006	Takeo Okabe	OGOSH56USA	8832

270 7590 03/04/2011  
HOWSON & HOWSON LLP  
501 OFFICE CENTER DRIVE  
SUITE 210  
FORT WASHINGTON, PA 19034

EXAMINER
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BAND, MICHAEL A

ART UNIT	PAPER NUMBER
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1723

NOTIFICATION DATE	DELIVERY MODE
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03/04/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@howsonandhowson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,653	<b>Applicant(s)</b> OKABE ET AL.	
	<b>Examiner</b> MICHAEL BAND	<b>Art Unit</b> 1723	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-11,13 and 15-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-11,13 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 7-11, 13, 17-23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al (US Patent No. 6,619,537) in view of Fukuda (JP No. 03079734) and Honjo et al (JP No. 10168532).

With respect to claims 1-2 and 17-19, Zhang et al discloses a sputter target assembly including a high purity copper alloy sputter target [12] having a back face [14] diffusion bonded directly to a backing plate [16] of a Cu alloy (fig. 1; abstract; col. 1, lines 56-67; col. 2, lines 1-21). However Zhang et al is limited in that a specific composition of the Cu alloy backing plate.

Fukuda discloses a copper alloy for a backing plate in a sputtering apparatus, where the copper alloy comprises 0.05 to 0.8% Cr, 0.01 to 2.5% Sn, 0.001 to 0.5% Mg, 0.01 to 0.3% Si, and the balance Cu, with Fukuda citing the advantages of the specified weight percentages as reducing deformation due to thermal strains, permit repeated use, and improving the heat conductivity and brazability (abstract).

It would have been obvious to one of ordinary skill in the art to use the specified copper alloy weight percentages taught by Fukuda for the Cu alloy backing plate of

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Zhang et al to gain the advantages of reducing deformation due to thermal strains, permit repeated use, and improving the heat conductivity.

However Fukuda is limited in that adding Ni is not suggested.

Honjo et al teaches a Cu alloy for a backing plate comprising one or more kinds among Sn, Ni, Si, Cr, and Mg by 0.001 to 1.0%, and the balance Cu, with the advantage of using these materials being excellent machinability, thermal conductivity, thermal resistance, and brazability (abstract).

Since the prior art of Honjo et al recognizes the equivalency of Sn and Ni in overlapping composition ranges in the field of copper alloy backing plates having excellent thermal conductivity and brazability, it would have been obvious to one of ordinary skill in the art to replace Sn of Fukuda with Ni of Honjo et al as it is merely the selection of functionally equivalent materials recognized in the art for improving thermal conductivity and brazability and one of ordinary skill would have a reasonable expectation of success in doing so.

With respect to claims 7, 10, and 20, modified Zhang et al further discloses a copper alloy having similar weight percentages of Cr, Ni, and Si as discussed above. Therefore it is expected that the copper alloy backing plate possesses the properties of an electrical conductivity of 35 to 60% and 0.2% proof stress of 400 to 850 MPa. See MPEP 2112.01, Section I. If not, it must be due to a structural limitation not currently present.

With respect to claims 8-9, 11, and 13, modified Zhang et al further discloses using a hot isostatic pressing (HIPing) method to use diffusion bonding of the target and

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backing plate (col. 5, lines 4-9), where the diffusion bonding is at a temperature of about 350°C (col. 5, lines 51-59).

With respect to claims 21-23 and 26, modified Fukuda further teaches that the Cu alloy comprises 0.05-8% Cr and one or more kinds among 0.01-2.5% Sn (i.e. Ni), 0.01-1% Zn, 0.01-0.3% Si, 0.01-0.3% Zr, 0.001 to 0.5% Mg, 0.01 to 1.0% Te, and 0.1 to 4.0% Pb, with the remaining percentage being Cu. Therefore a minimum and maximum percentage of Cu can be calculated, with the assumption that all of these materials are present in the Cu alloy, with said maximum being 99.799% Cu and said minimum being 89.6% Cu, with it being held that where the claimed ranges 'overlap or lie inside ranges disclosed by the prior art' a *prima facie* case of obviousness exists. See MPEP 2144.05, Section I. Therefore it is obvious that modified Fukuda teaches the Cu alloy comprises 96.2% Cu, 3% Ni, 0.65% Si, and either 0.15% Cr or Mg.

3. Claims 15-16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al (US Patent No. 6,619,537) in view of Ishikura (JP No. 01180976).

With respect to claims 15-16 and 24, Zhang et al discloses a sputter target assembly including a high purity copper alloy sputter target [12] having a back face [14] diffusion bonded directly to a backing plate [16] of a copper alloy (fig. 1; abstract; col. 1, lines 56-67; col. 2, lines 1-21). However Zhang et al is limited in that including Be into the copper alloy is not suggested.

Ishikura teaches a backing plate for sputtering, where the backing plate is copper having a purity of at least 99.7% with Be added from 100~3000 wt. ppm (abstract).

Since Ishikura teaches a copper alloy backing plate having the claimed weight

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percentages of Be, it is expected that the copper alloy backing plate possesses the properties of an electrical conductivity of 35 to 60% and 0.2% proof stress of 400 to 850 MPa. See MPEP 2112.01, Section I. If not, it must be due to a structural limitation not currently present. Ishikura cites the advantage of adding the Be to the backing plate as producing a significant cooling effect from satisfactory heat conductivity and the diffusion of Cu being inhibited (abstract).

It would have been obvious to one of ordinary skill in the art to incorporate adding Be to the copper backing plate taught by Ishikura for the copper alloy backing plate of Zhang et al to gain the advantage of producing a significant cooling effect from satisfactory heat conductivity and the diffusion of Cu being inhibited.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al (US Patent No. 6,619,537) and Ishikura (JP No. 01180976) as applied to claim 15, and further in view of Honjo et al (JP No. 01180975).

With respect to claim 25, the references are cited as discussed for claim 15. Ishikura further teaches that the Cu alloy backing plate comprises one or more among Zn, In, Mn, Sb, Be, Ca, Cr, Te, Y, Nb, Mo, Ta and Sn (abstract). However Ishikura is limited in that it is not suggested to incorporate Ni and Co.

Honjo et al teaches a Cu alloy for a backing plate comprising 0.01 to 1.0% Co and one or more kinds among Zn, Sn, Ni, Fe, Pb, Si, Al, Zr, Cr, Ti, In, Mg and Ag by 0.001 to 1.0%, and the balance Cu, with the advantage of using these materials being excellent machinability, thermal conductivity, thermal resistance, and brazability (abstract).

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It would have been obvious to one of ordinary skill in the art to incorporate 1.0% Co and 1.0% Ni taught by Honjo et al into the Cu-Be alloy backing plate of Ishikura to gain the advantages of excellent machinability, thermal conductivity, thermal resistance, and brazability.

The combination of references Ishikura and Honjo et al teach a CU alloy backing plate comprising 0.3% Be, 1.0% Co, and 1.0% Ni, with the balance of Cu being 97.7%, with it being held that a *prima facie* case of obviousness exists where the claimed ranges (i.e. 2.1% Ni and Co) and prior art ranges (i.e. 1.0% Ni and 1.0% Co) do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. See MPEP 2144.05, Section I.

### ***Response to Arguments***

#### **103 Rejections**

5. Applicant's arguments with respect to claims 1-2 and 7-11, 13, 17-23, and 26 have been considered but are moot in view of the new ground(s) of rejection due to the new claim limitations requiring an element forming a majority of the alloy is Cu.
6. Applicant's arguments directed to claims 15-16 have been fully considered but they are not persuasive.
7. On p. 10-11, the Applicant argues that Ishikura teaches that adding Be inhibit diffusion of Cu, thus Be inhibits diffusion bonding of the Cu alloy backing plate to the target.

The Examiner respectfully disagrees. Ishikura teaches that the addition of Be inhibits diffusion of Cu during use (i.e. sputtering) (abstract), therefore Ishikura does not teach that adding Be inhibits bonding of the Cu alloy backing plate to the target.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Band whose telephone number is (571) 272-9815. The examiner can normally be reached on Mon-Fri, 9am-5pm, EST.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexa Neckel can be reached on (571) 272-1446. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. B./

Examiner, Art Unit 1723

/Alexa D. Neckel/

Supervisory Patent Examiner, Art Unit 1723